

LINDA CLAXTON, State Bar No. 125729  
[linda.claxton@ogletreedeakins.com](mailto:linda.claxton@ogletreedeakins.com)

CHRISTOPHER W. DECKER, State Bar No. 229426  
[christopher.decker@ogletreedeakins.com](mailto:christopher.decker@ogletreedeakins.com)

OGLETREE, DEAKINS, NASH,  
SMOAK & STEWART, P.C.  
633 West Fifth Street, 53rd Floor  
Los Angeles, California 90071  
Telephone: (213) 239-9800  
Facsimile: (213) 239-9045

Attorneys for Defendants  
ROYAL BANK OF CANADA, RBC CAPITAL MARKETS  
CORPORATION (incorrectly named and sued as "RBC WEALTH  
MANAGEMENT COMPANY, formerly RBC DAIN RAUSCHER,  
INC."), and THE ROYAL BANK OF CANADA US WEALTH  
ACCUMULATION PLAN

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

STEVEN BENHAYON,  
Plaintiff,

v.

ROYAL BANK OF CANADA, a  
Canadian company, business form  
unknown; RBC WEALTH  
MANAGEMENT COMPANY, formerly  
RBC DAIN RAUSCHER, INC.,  
business form unknown; THE ROYAL  
BANK OF CANADA US WEALTH  
ACCUMULATION PLAN, formerly  
known as RBC Dain Rauscher Wealth  
Accumulation Plan; and, DOES 1  
through 20,

Defendants.

Case No. CV08-06090 FMC(AGR<sub>x</sub>)

**DEFENDANTS' NOTICE OF  
MOTION AND MOTION FOR  
PARTIAL SUMMARY  
JUDGMENT ON PLAINTIFF'S  
CLAIM FOR BENEFITS UNDER  
THE ROYAL BANK OF CANADA  
US WEALTH ACCUMULATION  
PLAN**

Date: None Set  
Time: None Set  
DJ: Florence-Marie Cooper  
Courtroom: (Roybal) 750  
MJ: Alicia G. Rosenberg  
Courtroom: (Spring) 23

Trial Date: February 16, 2010

1 TO PLAINTIFF STEVEN BENHAYON AND HIS ATTORNEY OF  
2 RECORD:

3 NOTICE IS HEREBY GIVEN that, upon completion of the briefing schedule  
4 established by the Court for the ERISA issues in this action, Defendants the Royal  
5 Bank of Canada, RBC Capital Markets Corporation (incorrectly named and sued as  
6 "RBC Wealth Management Company, formerly RBC Dain Rauscher, Inc.") and the  
7 Royal Bank of Canada U.S. Wealth Accumulation Plan, will and hereby do move the  
8 Court for partial summary judgment on Plaintiff's First Cause of Action for  
9 Violation of the Employee Retirement Income Security Act of 1974 on the ground  
10 that there is no genuine issue as to any material fact and that Defendants are entitled  
11 to judgment as a matter of law as to Plaintiff's claim for benefits under the Royal  
12 Bank of Canada U.S. Wealth Accumulation Plan because there was no abuse of  
13 discretion in making the determination to reject Plaintiff's claim for benefits.

14 This motion is based upon this Notice of Motion and Motion, the  
15 accompanying Memorandum of Points and Authorities, Separate Statement of  
16 Uncontroverted Facts and Conclusions of Law, the Declarations of Gabriela Sikich  
17 and Christopher W. Decker, all pleadings and papers on file in this action, and upon  
18 such other matters as may be presented to the Court at the time of any hearing on this  
19 Motion.

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 Pursuant to the Court's order of June 17, 2009, this Motion shall be deemed  
2 submitted upon the filing of the parties' simultaneous reply briefs on August 5, 2009.

3  
4 DATED: July 22, 2009

OGLETREE, DEAKINS, NASH, SMOAK  
& STEWART, P.C.

5  
6  
7 By: /s/

8 Christopher W. Decker  
9 Attorneys for Defendants  
10 ROYAL BANK OF CANADA, RBC  
11 CAPITAL MARKETS CORPORATION  
12 (incorrectly named and sued as "RBC  
13 WEALTH MANAGEMENT COMPANY,  
14 formerly RBC DAIN RAUSCHER,  
15 INC."), and THE ROYAL BANK OF  
16 CANADA US WEALTH  
17 ACCUMULATION PLAN  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28